

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ABBOTT LABORATORIES, an Illinois corporation, FOURNIER INDUSTRIE ET SANTÉ, a French corporation, and LABORATOIRES FOURNIER S.A., a French corporation,

Plaintiffs,

v.

TEVA PHARMACEUTICALS USA, Inc.,
a Delaware corporation,

Defendant.

Civil Action No. 02-1512 (KAJ)
(consolidated)

TEVA PHARMACEUTICALS USA, Inc.,
a Delaware corporation, and TEVA
PHARMACEUTICAL INDUSTRIES LTD.,
an Israeli corporation,

Counterclaim Plaintiffs,

v.

ABBOTT LABORATORIES, an Illinois corporation, FOURNIER INDUSTRIE ET SANTÉ, a French corporation, and LABORATOIRES FOURNIER, S.A., a French corporation,

Counterclaim Defendants.

ABBOTT LABORATORIES, an Illinois corporation, FOURNIER INDUSTRIE ET SANTÉ, a French corporation, and LABORATOIRES FOURNIER S.A., a French corporation,

Plaintiffs,

v.

IMPAX LABORATORIES, INC,
a Delaware corporation,

Defendant.

Civil Action No.: 03-120-KAJ
(Consolidated)

IMPAX LABORATORIES, INC,
a Delaware corporation,

Counterclaim Plaintiffs,

v.

ABBOTT LABORATORIES, an Illinois
corporation, FOURNIER INDUSTRIE ET
SANTÉ, a French corporation, and
LABORATOIRES FOURNIER, S.A., a
French corporation,

Counterclaim Defendants.

IN RE TRICOR DIRECT PURCHASER
ANTITRUST LITIGATION

THIS DOCUMENT RELATES TO:

ALL ACTIONS

Civil Action No. 05-340 (KAJ)

(consolidated)

IN RE TRICOR INDIRECT PURCHASER
ANTITRUST LITIGATION

THIS DOCUMENT RELATES TO:

ALL ACTIONS

Civil Action No. 05-360 (KAJ)

(consolidated)

**DEFENDANTS' CONSOLIDATED
MOTION TO DISMISS PLAINTIFFS' COMPLAINTS**

Abbott Laboratories, Fournier Industrie et Sante and Laboratories Fournier S.A. hereby jointly move this Court to dismiss Teva's and Impax's Counterclaims and all of the Complaints pursuant to Fed. R. Civ. P. 12(b)(6).

Abbott Laboratories hereby individually moves this Court to dismiss, pursuant to Fed. R. Civ. P. 9(b) and 12(b)(6), or to strike, pursuant to Fed. R. Civ. P. 12(f): (1) those portions of Teva's and Impax's Counterclaims against Abbott that are dependent on Walker Process fraud or inequitable conduct and (2) those portions of Plaintiffs' claims that are dependent on inequitable conduct.

Fournier Industrie et Sante and Laboratories Fournier S.A. hereby individually move this Court to dismiss or to strike those portions of Teva's, Impax's and any other Plaintiffs' claims that are dependent on Marketing Conduct or on wrongful listing in the Orange Book.

The grounds for this motion are fully set forth in Defendants' Consolidated Opening Brief in Support of Their Consolidated Motion to Dismiss Plaintiffs' Complaints, filed contemporaneously herewith.

Attorneys for Abbott Laboratories:

/s/ Mary B. Graham

Mary B. Graham (I.D. #2256)
mgraham@mnat.com
MORRIS, NICHOLS, ARSHT & TUNNELL
1201 N. Market Street
P.O. Box 1347
Wilmington, DE 19801
(302) 658-9200

Of Counsel:

William F. Cavanaugh, Jr.
Eugene M. Gelernter
Chad J. Peterman
Alexis A. Gander
PATTERSON, BELKNAP, WEBB TYLER LLP
1133 Avenue of the Americas
New York, NY 10036-6710
(212) 336-2000

Dated: October 19, 2005

*Attorneys for Fournier Industrie et Santé, and
Laboratories Fournier S.A.:*

Anne Shea Gaza
Frederick L. Cottrell, III (I.D. #2555)
Anne Shea Gaza (I.D. #4093)

cottrell@rlf.com
gaza@rlf.com
RICHARDS, LAYTON & FINGER
One Rodney Square
Wilmington, DE 19801
(302) 651-7700

Of Counsel:

Steven C. Sunshine
Matthew P. Hendrickson
Maria M. DiMoscato
Cadwalader, Wickersham & Taft LLP
1201 F Street, N.W.
Washington, D.C. 20004
(202) 862-2200

Timothy C. Bickham
STEPTOE & JOHNSON LLP
1330 Connecticut Avenue, N.W.
Washington, DC 20036-1795
(202) 429-5517

CERTIFICATE OF SERVICE

I hereby certify that on October 19, 2005, I caused to be served by hand delivery the foregoing document and electronically filed the same with the Clerk of Court using CM/ECF which will send notification of such filing(s) to the following:

Josy W. Ingersoll
John W. Shaw
Karen Keller
Young Conaway Stargatt & Taylor, LLP
The Brandywine Building
1000 West Street, 17th Floor
P.O. Box 391
Wilmington, Delaware 19899-0391

Jeffrey S. Goddess
Rosenthal, Monhait, Gross & Goddess, P.A.
919 Market Street, Suite 1401
P.O. Box 1070
Wilmington, DE 19899-1070
Tel. (302) 656-4433
Fax. (302) 658-7567

Jonathan L. Parshall
Murphy Spadaro & Landon
1011 Centre Road, Suite 210
Wilmington, DE 19801

Mary Matterer
Morris, James, Hitchens & Williams
222 Delaware Avenue, 10th Floor
Wilmington, DE 19801

Pamela S. Tikellis
Robert J. Kriner, Jr.
A. Zachary Naylor
Chimicles & Tikellis LLP
One Rodney Square
P.O. Box 1035
Wilmington, DE 19899

Elizabeth M. McGeever
Prickett Jones Elliott, P.A.
1310 King Street
Wilmington, DE 19801

I hereby certify that on October 19, 2005, I sent by facsimile the foregoing document to the following non-registered participants:

William Christopher Carmody
John W. Turner
Shawn J. Rabin
Susman Godfrey LLP
Suite 4100
901 Main Street
Dallas, TX 75202-3775

Scott E. Perwin
Kenny Nachwalter, P.A.
1100 Miami Center
201 South Biscayne Boulevard,
Miami, Florida 33131-4327

Bruce M. Gagala
M. Daniel Hefner
Leydig, Voit & Mayer, LTD
Two Prudential Plaza
Suite 4900
180 N. Stetson Avenue
Chicago, IL 60601-6780

Philip J. McCabe
Kenyon & Kenyon
333 West San Carlos Street
Suite 600
San Jose, CA 95110

Bruce E. Gerstein
Barry Taus
Adam Steinfeld
Garwin Gerstein & Fisher LLP
1501 Broadway, Ste 1416
New York, NY 10036

Patrick E. Cafferty
Bryan L. Clobes
Miller Faucher and Cafferty LLP
One Logan Square
18th & Cherry Street
Suite 1700
Philadelphia, PA 19103

Jeffrey L. Kodroff
Spector, Roseman & Kodroff, P.C.
1818 Market Street
Suite 2500
Philadelphia, PA 19103

Bernard Persky
Goodkind Labaton Rudoff & Sucharow LLP
100 Park Avenue,
New York, NY 10017

Thomas M. Sobol
Hagens Berman Sobol Shapiro LLP
One Main Street, 4th Floor
Cambridge, MA 02142
Ph. (617)482-3700
Fax (617) 482-3003

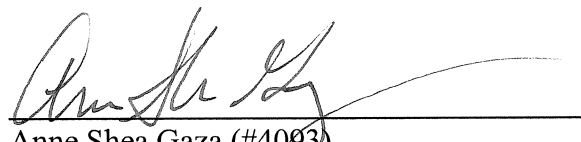
Kenneth A. Cohen
Elaine Herrmann Blais
Christopher T. Holding
Goodwin Procter LLP
Exchange Place
Boston MA 02109-2881

John C. Vetter
Kenyon & Kenyon
One Broadway
New York, NY 10004

C. Kyle Musgrove
Kenyon & Kenyon
1500 K Street N.W.
Suite 700
Washington, D.C. 20005

Mark A. Lemley
Asim Bhansali
Paula Blizzard
Keker & Van Nest LLP
710 Sansome Street
San Francisco, CA 94111

Joseph T. Lukens
Hangley Aronchick Segal & Pudlin
One Logan Square, 27th Floor
Philadelphia, PA 19103


Anne Shea Gaza (#4093)
GAZA@rlf.com